

SHIPPED: On 2-20-63, 2-25-63, and other unknown dates, from Missouri and Wisconsin.

LIBELED: 10-10-63, Dist. Nebr.

CHARGE: 402(a) (3)—the cornmeal mush contained insect larvae, and all the articles contained mold while held for sale.

DISPOSITION: 12-4-63. Default—destruction.

CHOCOLATE, CONFECTIONERY, AND RELATED PRODUCTS

CHOCOLATE PRODUCT

29236. Cocoa, cornmeal and corn puffs. (F.D.C. No. 48872. S. Nos. 20-781 T, 70-942 T, 70-945 T, 20-164 X.)

INFORMATION FILED: 8-30-63, N. Dist. Tex., against Schepps Grocer Supply, Inc., Dallas, Tex., and Abraham G. Schepps.

ALLEGED VIOLATIONS: Between 7-5-62 and 8-28-62, while quantities of cocoa, cornmeal and corn puffs were held for sale after shipment in interstate commerce, Abraham Schepps, at that time an individual trading as Schepps Grocer Supply, caused the cocoa to be exposed to contamination by DDT and the cornmeal and corn puffs to be held in a building accessible to rodents and insects and to be exposed to contamination by insects, which acts resulted in such articles being adulterated.

In addition, between 6-13-63 and 7-15-63, while a quantity of cornmeal was being held for sale after shipment in interstate commerce, Schepps Grocer Supply, Inc., and Abraham Schepps, at that time president of the corporation, caused such cornmeal to be held in a building accessible to insects and rodents and to be exposed to contamination by insects and rodents, which acts resulted in the cornmeal being adulterated.

CHARGE: 402(a) (3)—a portion of the cornmeal contained rodent urine and the corn puffs contained insects; and 402(a) (4)—the cocoa was held under insanitary conditions whereby it may have been rendered injurious to health and the other articles were held under insanitary conditions whereby they may have become contaminated with filth.

PLEA: Nolo contendere.

DISPOSITION: 10-22-63. Corporation fined \$500; individual fined \$150.

CONFECTIONERY*

29237. Tootsie Rolls (candy). (Inj. No. 412.)

COMPLAINT FOR INJUNCTION FILED: 8-8-61, Dist. N.J., against Sweets Company of America, a corporation, and Joseph T. Hand, treasurer.

CHARGE: The complaint alleged that the defendants operated at Hoboken, N.J., a plant which manufactured 4 kinds of candy under the brand name prefix "Tootsie" one of which was designated "Tootsie Rolls" and that the "Tootsie Rolls" were made in various size packages, among which was a "Multi-Pak," labeled as containing 9 ounces, which contained 6 individually wrapped pieces of candy. It was alleged further that prior to 1-1-61, each of the individually wrapped pieces of candy in the "Multi-Pak" carton were labeled as containing 1½ ounces; that on or about 1-1-61, the company cut the weight of each piece by ⅓ of an ounce namely to 1⅓ ounces; that the "Multi-Pak" carton remained

*See also No. 29211.

labeled as containing 9 ounces rather than $8\frac{1}{4}$ ounces; that new wrappers on the individually wrapped pieces of candy were not put in use until May 1961; and that the "Multi-Pak" carton showing 9 ounces as the net weight of the contents of the package was still being used at the time of the filing of the complaint.

The complaint alleged also that the defendants were aware that their activities were in violation of the Act; that they had informed inspectors of the Food and Drug Administration that it was their intention to continue to use the "Multi-Pak" labels as described above until their supply was exhausted as they had used their supply of wrappers for the individual pieces; that a seizure had been instituted against a shipment of such candy charging that the article under seizure was misbranded under 403(e)(2) in that it was a food in package form which failed to bear a label containing an accurate statement of the quantity of contents; and that some packages of "Tootsie Rolls" designated as vend-packs and labeled " $1\frac{1}{4}$ ounces" or " $1\frac{3}{4}$ ounces" were collected by inspectors of Food and Drug Administration and found to be short of the declared weight.

The complaint alleged also that despite the warnings conveyed to the defendants by such inspections and seizure, the defendants continued to distribute in interstate commerce in violation of the Act, candy which was misbranded within the meaning of 403(e)(2) in the manner described above.

DISPOSITION: On 8-8-61, a temporary restraining order was entered and on 8-17-61, the defendants having consented, a decree of permanent injunction was entered restraining the defendants from directly or indirectly introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce in violation of the Act, any "Tootsie Rolls" Multi-Pak or "Tootsie Rolls" vend-packs and so distributing or otherwise disposing of "Tootsie Rolls" then being held at any of the defendants' plants, warehouses, or otherwise under their control, which were misbranded within the meaning of 403(e)(2) as alleged in the complaint unless and until the net weight statement was corrected.

29238. Candy. (F.D.C. No. 48856. S. Nos. 82-514 V, 82-516 V.)

QUANTITY: 11 10-lb. bulk cases and 35 cases, each containing 12 7-oz. bags of licorice rolls; and 66 cases, each containing 24 $5\frac{1}{2}$ -oz. bags of Rocket Pops, at Linden, N.J., in possession of Eljay Service.

SHIPPED: Between 1-4-63 and 3-21-63, the Rocket Pops from Middletown, Pa., by Pennbrook Candy Co., Inc., and the licorice rolls from New York, N.Y.

LABEL IN PART: (Bag) "Eljay Imported Licorice Rolls Ingredients * * * U.S. Certified Colors * * * M'f'd. for Eljay Service Linden, N.J."; (bag) "Eljay Rocket Pops * * * Ingredients * * * Artificial Flavors, U.S. Certified Color * * * Mfd. For Eljay Service, Linden, N.J."

RESULTS OF INVESTIGATION: The licorice rolls had been shipped in bulk and had been intended to be repacked by the dealer into bags labeled as described above; the 35-case lot of licorice rolls had been repacked by the dealer. The Rocket Pops had been packed by the shipper in bags supplied by the dealer. The licorice rolls (bulk and repacked) consisted of individually wrapped pieces of candy; each wrapper had a silver-and-black foil overwrap bearing the name "Licorice Rolls." The Rocket Pops consisted of variously colored, individually cellophane wrapped lollipops on white cardboard sticks. The Rocket Pops and the repacked licorice rolls were packed and the bulk licorice